

REMARKS

Upon entry of the above amendment, claims 5-12 and 14 will be pending in the present application. Applicants respectfully submit that the amendments to the claims do not add any new matter within the meaning of 35 USC §132.

1. Rejection of claims 1-12 and 14 on the grounds of Obviousness-Type Double Patenting

Claims 1-12 and 14 have been rejected under the doctrine of obviousness-type double patenting over now allowed claims 1-13 of USSN 10/524,819.

RESPONSE

With respect to claims 1-4, applicants respectfully note that these claims have been canceled without prejudice, rendering the basis for this rejection moot as to these claims.

With respect to claims 5-12 and 14, applicants respectfully traverse this rejection. However, solely to overcome this rejection, applicants have filed herewith a Terminal Disclaimer over the '819 application, rendering the basis for this rejection moot.

Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection.

2. Provisional rejection of claims 1-12 and 14 on the grounds of Obviousness-Type Double Patenting

Claims 1-12 and 14 have been provisionally rejected under the doctrine of obviousness-type double patenting over claims 1-11 and 13 of USSN 10/591,478.

RESPONSE

With respect to claims 1-4, applicants respectfully note that these claims have been canceled without prejudice, rendering the basis for this rejection moot as to these claims.

With respect to claims 5-12 and 14, applicants respectfully note that the '478 application was filed after the present application. Accordingly, this provisional rejection must be withdrawn if all other rejections are overcome. Applicants believe that, by filing the present Response and Amendment, that all pending rejections are overcome.

Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this provisional rejection.

3. Rejection of claims 1-12 and 14 under 35 U.S.C. §112, 1st paragraph

Claims 1-12 and 14 are rejected under 35 U.S.C. §112, 1st paragraph because the Examiner alleges that while the specification is enabled for some of the compounds, the specification is not enabled for 1) hydrates, solvates, hydrates of salts or solvates of

salts of the compounds; or 2) "for all the numerous R1, R2 and R6 to be all the various large groups such as a cycloalkoxy, that too fluoro substituted cyclo groups or functional groups."

RESPONSE

With respect to claims 1-4, applicants respectfully note that these claims have been canceled without prejudice, rendering the basis for this rejection moot as to these claims.

With respect to claims 5-12 and 14, applicants respectfully traverse this rejection. Applicants have canceled the language directed to hydrates, solvates, hydrates of salts and solvates of salts from the claims without prejudice, rendering the basis for this rejection moot.

As such, the presently pending claims are fully enabled by the present specification because a person of ordinary skill in the art would not require undue experimentation to practice the presently claimed invention. In particular, applicants respectfully note that the presently pending claims are much closer in scope to the Example compounds which were synthesized. See pages 22-23 of the present specification. Further, applicants respectfully note that the ordinary skilled artisan would have a high level of skill. Thus, synthesis of the presently claimed compounds would not require an undue amount of experimentation.

Accordingly, the presently claimed compounds and compositions are fully enabled by the present specification. As such,

applicants respectfully request that the Examiner reconsider and withdraw this rejection.

4. Request for Rejoinder of Withdrawn Method Claims 17-19

Applicants respectfully note that the Examiner has made the previous Restriction Requirement final, thus withdrawing claims 17-19 from consideration. However, applicants note the Examiner's comment on pages 4-5 of the previous Restriction Requirement that the withdrawn method claims are eligible for rejoinder if the elected claims are found allowable and the withdrawn claims are amended to include all the limitations of the patentable "product".

Applicants respectfully submit that, in view of the previous remarks and amendments, claims 5-12 and 14 are now in allowable form. As such, applicants respectfully request rejoinder of the method claims 17-19 and respectfully submit that they are willing to amend these claims to be commensurate in scope with the now patentable "product" claims 5-12 and 14.

CONCLUSION

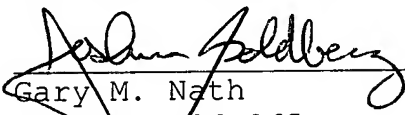
Based upon the evidence and amendments submitted herewith and the above remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to reconsider and withdraw the pending rejections and provisional rejection and allow pending claims 5-12 and 14. Applicants also respectfully request that the Examiner now rejoin claims 17-19. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned attorney if she has any questions or comments.

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